

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re
CIRCUIT CITY STORES, INC., et al.,
Debtors.

Chapter 11
Case No. 08-35653 (KRH)
Jointly Administered

**RESPONSE OF GRI EQY SPARKLEBERRY SQUARE TO
LIQUIDATING TRUST'S FORTIETH OMNIBUS OBJECTION TO LANDLORD
CLAIMS (REDUCTION OF CERTAIN INVALID CLAIMS-MITIGATION)**
(Claim No. 12759)

GRI EQY Sparkleberry Square (“GRI”), by counsel, hereby files its response (the “Response”) to the Liquidating Trust’s Fortieth Objection to Landlord Claims (the “Objection”) (docket no. 11851). In the Objection, the Liquidating Trust asserts that GRI’s Claim No. 12759 (the “Claim”) filed in the amount of \$572,222.82, which was reduced to \$570,931.90 pursuant to the Liquidating Trust’s Seventeenth Omnibus Objection to Landlord Claims (Reduction of Certain Partially Invalid Claims, Reclassification of Certain Misclassified Claims, and Disallowance of Invalid, Late Filed, Duplicate and Amended Claims), should be further reduced and allowed in the sum of \$64,864.52. GRI opposes the relief sought by the Liquidating Trust in the Objection and asks that the Claim be allowed in the amount of \$570,931.90. In support of its Response, GRI states the following:

1. The Liquidating Trust’s Objection asserts that the Claim should be reduced subject to modification upon timely receipt of mitigation information.

Augustus C. Epps, Jr., Esquire (VSB No. 13254)
Michael D. Mueller, Esquire (VSB No. 38216)
Jennifer M. McLemore, Esquire (VSB No. 47164)
CHRISTIAN & BARTON, LLP
909 East Main Street, Suite 1200
Richmond, Virginia 23219
Telephone: (804) 697-4100
Facsimile: (804) 697-4112

Counsel for GRI EQY Sparkleberry Square

2. The Claim should not be reduced as GRI was unable to mitigate the damages sought in its Claim.

3. Circuit City rejected the space it rented from GRI effective March 1, 2009, pursuant to Bankruptcy Code Section 365(d)(2) and procedures approved by this Court (the “Rejection”).

4. GRI was able to find a tenant to rent the location that Circuit City had occupied (8910 Two Notch Road, Columbia, South Carolina, also known as store number 522 (the “Location”)). The tenant, however, signed its lease on June 15, 2010, and it commenced paying rent on March 25, 2011.

5. Prior to February 2009 Circuit City paid \$12.10 per square foot. Thereafter Circuit City was to pay \$13.10 per square foot for the Location. The current tenant is paying \$9.00 per square foot.

6. In addition to decreased rent, GRI paid \$1,669,472.87 in tenant improvements in order to lease the Location to the current tenant, plus \$132,620.00 in real estate commissions, and related legal fees.

7. For the reasons stated herein, GRI has been unable to mitigate its damages in any meaningful way, such that its Claim should be allowed in the amount of \$570,931.90.

8. The party with authority to discuss mitigation issues and the facts stated in this Response is the following:

Aaron Kitlowski
Equity One, Inc.
410 Park Avenue, Suite 1220
New York, New York 10022
212-796-1751

WHEREFORE, GRI EQY Sparkleberry Square requests that the Court deny the Liquidating Trust's Objection to Claim No. 12759 and that such claim be allowed finally by Court order in the amount of \$570,931.90.

Dated: July 5, 2012

CHRISTIAN & BARTON, LLP

/s/ Jennifer M. McLemore

Augustus C. Epps, Jr., Esquire (VSB No. 13254)

Michael D. Mueller, Esquire (VSB No. 38216)

Jennifer M. McLemore, Esquire (VSB no. 47164)

909 East Main Street, Suite 1200

Richmond, VA 23219

Telephone: (804) 697-4100

Facsimile: (804) 697-6112

Counsel for GRI EQY Sparkleberry Square

CERTIFICATE OF SERVICE

I, Jennifer M. McLemore, hereby certify that on the 5th day of July 2012, a true and correct copy of the foregoing has been served electronically using the ECF system on all registered users of the CM/ECF system who have filed notices of appearance in this matter and emailed separately to the following:

Jeffrey N. Pomerantz, Esquire
Andrew W. Caine, Esquire
Lynn L. Tavenner, Esquire
Paula S. Beran, Esquire

jpomerantz@pszjlaw.com
acaine@pszjlaw.com
ltavenner@tb-lawfirm.com
pberan@tb-lawfirm.com

/s/ Jennifer M. McLemore

Jennifer M. McLemore